

ADAMS, J.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ANTHONY GARNER, et al.,)	CASE NO. 1:02CV1286
)	
Plaintiffs,)	
)	JUDGE JOHN R. ADAMS
v.)	
)	<u>ORDER</u>
CUYAHOGA COUNTY JUVENILE)	[RESOLVING DOCS. 301, 302, and 314]
COURT, et al.,)	
)	
Defendants.)	

1. This action is before the Court upon the Motion of Attorney Timothy A. Ita to Withdraw as Counsel *Nunc Pro Tunc* to October 3, 2003 (Doc. 301). The Court has reviewed the memorandum in support (Doc. 303), affidavit of Attorney Timothy A. Ita (Doc. 306), defendants' response (Doc. 307), and plaintiffs' response (Doc. 311). Attorney Ita moves the Court for leave to withdraw as counsel for the plaintiffs, effective as of October 3, 2003.

2. This action is also before the Court upon the Motion of Attorney Timothy A. Ita to Reconsider and/or Amend Order Regarding Attorney Fee Award Prior to Entry of Final Judgment (Doc. 302). The Court has reviewed the memorandum in support (Doc. 303), affidavit of Attorney Timothy A. Ita (Doc. 306), defendants' response (Doc. 308), and plaintiffs' response (Doc. 311). Attorney Ita moves the Court to reconsider and/or amend the Order (Doc. 291), entered on October 7, 2005, regarding the award of attorney's fees prior to the entry of final judgment regarding same.

Defendants Joseph F. Russo, Administrative Judge of the Cuyahoga County Juvenile Court; Kenneth J. Lusnia, Court Administrator; Len Munks, Superintendent; Angelo Lardomita,

Assistant Superintendent; and Donna Coe, kna Apanasewicz, Deputy Director of Human Resources do not object to Doc. 301. Furthermore, these defendants, having reconsidered their original request that the Court impose joint and several liability for an award of attorney's fees upon both Merrie Frost and Timothy A. Ita, are not now opposed to Doc. 302.

Plaintiffs filed their response to Attorney Ita's motions after receiving a 14-day extension of time. *See* Marginal Entry Order (Doc. 310). Plaintiffs' response (Doc. 311) states in its entirety:

Plaintiffs state that they have some disagreement about the factual allegations in attorney Ita's affidavit. Plaintiffs have no other response.

3. Furthermore, this action is before the Court upon the Motion of Attorney Timothy A. Ita for Ruling and/or to Clarify the Order (Doc. 313), entered on January 18, 2006 (Doc. 314). Attorney Ita moves the court either for a ruling on his pending motions (Docs. 301 and 302) or, in the alternative, for an order clarifying the Order (Doc. 313) setting a hearing on, *inter alia*, the award of attorney's fees as it may relate to him.

For good cause shown, the motions will be GRANTED. Accordingly,

The Motion of Attorney Timothy A. Ita to Withdraw as Counsel *Nunc Pro Tunc* to October 3, 2003 (Doc. 301) is GRANTED. Attorney Ita is allowed to withdraw from further representation of all of the plaintiffs in the above-captioned case, effective as of October 3, 2003.

The Motion of Attorney Timothy A. Ita to Reconsider and/or Amend Order Regarding Attorney Fee Award Prior to Entry of Final Judgment (Doc. 302) is GRANTED. The Court, having reconsidered the Order (Doc. 291), hereby amends said order as follows: The Court will award attorney's fees in favor of defendants and against plaintiffs and imposes joint and several

liability for that award upon their attorney, Merrie Frost, as a sanction. The Court, however, will not award attorney's fees against Attorney Ita.

The Motion of Attorney Timothy A. Ita for Ruling (Doc. 314) is GRANTED.

IT IS SO ORDERED.

February 15, 2006
Date

/s/ John R. Adams
John R. Adams
U.S. District Judge